



Paper No. 8

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**COPY MAILED****APR 2 9 2002****OFFICE OF PETITIONS**

In re Application of  
Wenocur et al.  
Application No. 09/912,905  
Filed: July 25, 2001  
Attorney Docket No. A-70555/RMA

: DECISION GRANTING  
: PETITION;  
: NOTICE TO FILE  
: CORRECTED APPLICATION  
: PAPERS

This is a decision on the petition filed on January 22, 2002, in effect requesting that a Notice of Omitted Item(s) in a Nonprovisional Application, mailed on October 9, 2001 for the above-identified application ("10/9/01 Notice"), be withdrawn.

The petition is GRANTED.

The application was filed on July 25, 2001. However, the Office of Initial Patent Examination (OIPE) mailed the 10/9/01 Notice stating that pages 39-41 of the specification were missing from the filed application.

In response, the instant petition was filed. Petitioners contend that 222 pages of specification including 5 pages of claims were filed on July 25, 2001 with the other application papers. In support, the petition is accompanied by a copy of Applicants' postcard receipt which acknowledges receipt in the Office on July 25, 2001 of, *inter alia*, 222 pages of specification. The application is identified on the postcard receipt as "A-70555/RMA," which is the attorney docket number for this application. In addition, the petition encloses "copies" of pages 39-41 allegedly filed on that date.

The Office file for this application includes only pages 1-38 and 42-222, but not 39-41. Based on the information contained in Applicants' postcard receipt, the Office concludes that pages 39-41 had been received in the Office on July 25, 2001 and were later misplaced. The petition is thus granted. The 10/9/01 Notice is hereby withdrawn.

No petition fee is owed. The \$130 petition fee has been credited to Deposit Account No. 06-1300 as authorized in the instant petition.

In addition, the substitute drawings enclosed with the instant petition do not comply with the margins requirements of 37 CFR 1.84. A courtesy copy of the April 23, 2002 Notice of Draftsperson's Patent Drawing Review is attached.

To avoid abandonment of this application,<sup>1</sup> Applicants must submit substitute drawings that are in full compliance with 37 CFR 1.84 within **TWO (2) MONTHS** from the mailing date of this

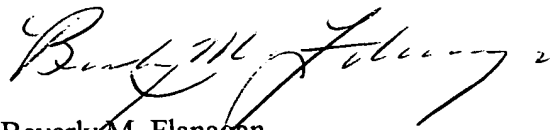
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<sup>1</sup> See 37 CFR 1.85(a) (A utility/plant application will not be placed on the files for examination until objections to the drawings have been corrected); and MPEP section 608.02(a) (Aug. 2001) (OIPE will not release applications to the Technology Centers [for examination] until acceptable drawings are filed . . . If a drawing is not timely received [by the PTO] in reply to a notice . . . , the application becomes abandoned for failure to reply.).

decision unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.<sup>2</sup>

The application is being returned to OIPE for further processing, using the originally filed specification supplemented with pages 39-41 supplied with the petition; and to await submission of corrected drawings.

Telephone inquiries concerning this decision should be directed to Petitions Attorney RC Tang at (703) 308-0763.



Beverly M. Flanagan  
Supervisory Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

Attachment: Courtesy copy of "Notice of Draftsperson's  
Patent Drawing Review" (4/23/02)

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<sup>2</sup> The 2-month period for reply to a Notice to File Corrected Application Papers, similar to that in a Notice to File Missing Parts, is not identified on the Notice as a statutory period subject to 35 U.S.C. 133. Thus, extensions under 37 CFR 1.136(a) of up to 5 months are permitted. See MPEP 710.02(d) (Aug. 2001).

Substitute drawings with proper margins should be sent directly to OIPE along with a copy of this decision.